

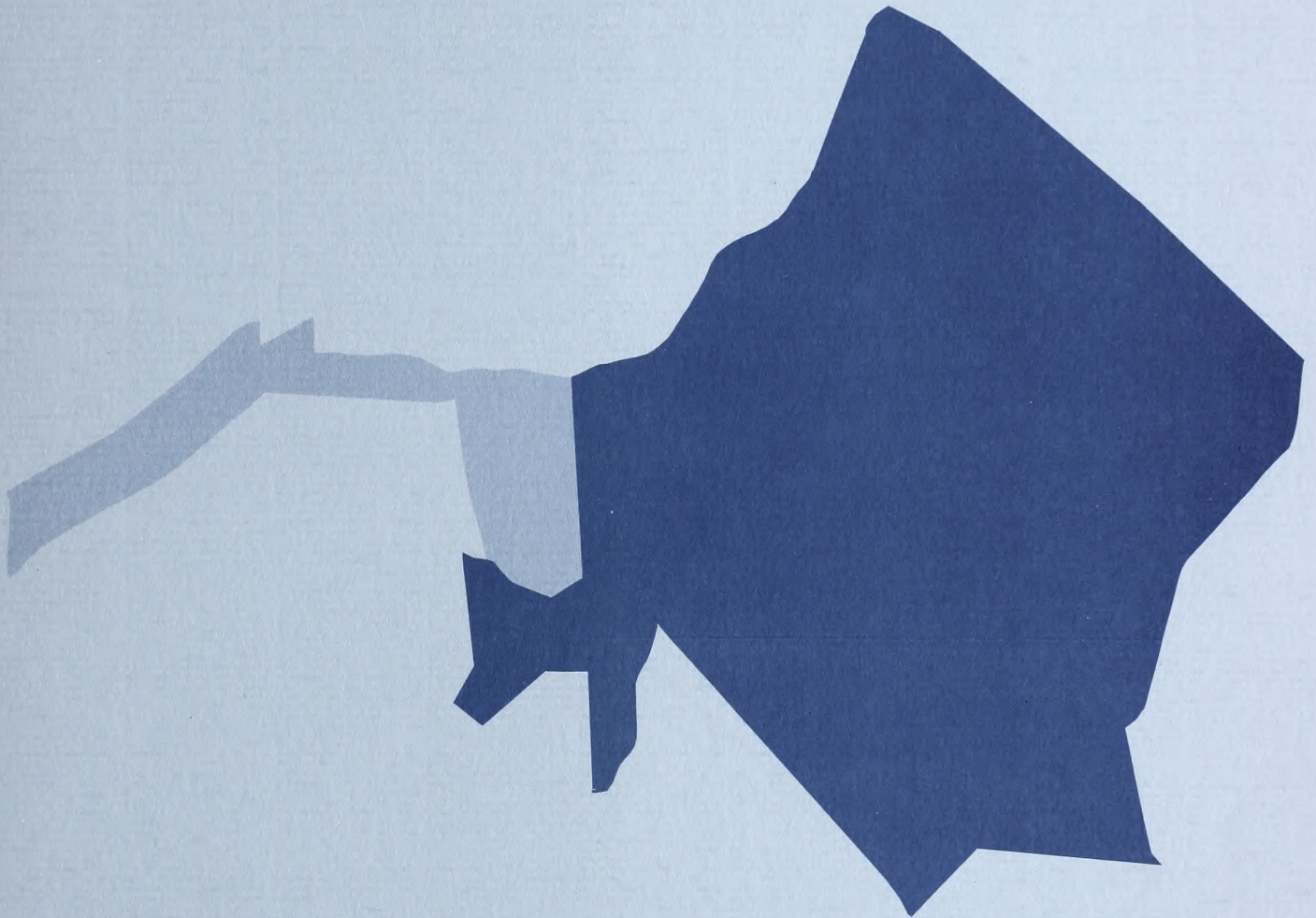
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**HAZELWOOD, NORTH CAROLINA**



ANNEXATION FEASIBILITY STUDY  
FOR  
HAZELWOOD, NORTH CAROLINA

Preparation of this document was financed in part through an urban planning grant from the Department of Housing and Urban Development under the provisions of Section 701 of the Housing Act of 1954, as amended.



Form CFSTI-35 (4-70)



ANNEXATION FEASIBILITY STUDY

FOR

HAZELWOOD, NORTH CAROLINA

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## CHAPTER 1

### INTRODUCTION AND PURPOSE

Annexation is the procedure whereby a municipality may extend its corporate limits to encompass additional land which in most cases is "urban in character." Most development in North Carolina is occurring outside the present corporate limits of most municipalities in an area commonly referred to as the "urban fringe." The extent of this development often necessitates the availability of municipal services, especially water and sewer and fire protection. Recognizing this trend the North Carolina General Assembly has stated its belief that whatever is urban in character should also be municipal.

§ 160A-33. Declaration of policy. --It is hereby declared as a matter of State policy:

1. That sound urban development is essential to the continued economic development of North Carolina;
2. That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and government purposes or in areas undergoing such development;
3. That municipal boundaries should be extended, in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare; and
4. That new urban development in and around municipalities having a population of less than 5,000 persons tends to be concentrated close to the municipal boundary rather than being scattered and dispersed as in the vicinity of larger municipalities, so that the legislative standards governing annexation by smaller municipalities can be simpler than those for large municipalities and still attain the objectives set forth in this section;
5. That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation. (1959, c. 1010, s. 1; 1973, c. 426, s. 74).



Consequently, the General Assembly granted municipalities rather liberal procedures by which they may extend their corporate limits to include much of the areas developed for urban purposes.

A municipality in North Carolina may extend its corporate limits by any one of three methods. These are (1) action by the General Assembly, (2) the 100 percent petition procedure, and (3) by the authority granted to municipalities by Chapter 160A, Article 4A, Part 2 (for municipalities under 5,000 population) or Part 3 (for municipalities of 5,000 or more).

1. Action by the General Assembly. The General Assembly may at any time enlarge the boundaries of a municipality by special act. The method is available to all municipalities unless its charter specifies otherwise. When this method is employed, a resolution is passed by the local governing body requesting its representative(s) in the General Assembly to introduce the annexation act. If approved by the General Assembly, the act may impose certain conditions on the municipality before the act is made effective.
2. The 100 Percent Petition Procedure. "The governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located within such area." (G.S. 160A-31). The procedure involves a public hearing and a finding that the petition and the area meet the requirements of G.S. 160A-31.
3. By The Authority Granted Municipalities by Chapter 160A, Article 4A of the General Statutes of North Carolina.

The General Assembly has provided slightly different methods



under this procedure for municipalities under 5,000 population as recorded by the last federal decennial census as opposed to those municipalities 5,000 and over in population. Since Hazelwood's population is less than 5,000, the procedure for municipalities of this size group will be discussed. The following requirements must be met:

- a. The area to be annexed must be contiguous to the municipality's corporate limits;
- b. At least one eighth of the total boundary of the area must coincide with the municipal boundary;
- c. No part of the area may be within another municipality;
- d. The area must be developed for urban purposes. For municipalities under 5,000 population, an area developed for urban purposes is defined as any area which is so developed that at least sixty percent of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional, or governmental purposes, and is subdivided into lots and tracts such that sixty percent of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, institutional or governmental purposes, consists of lot and tracts five acres or less in size; and



- e. New municipal boundaries must follow natural topographic features wherever practical, and if a street is used for a boundary it shall include developed land on both sides of the street.

Under this last method, the municipality is required to make plans for the extension of services to the area proposed to be annexed, prior to a public hearing. These plans shall include:

1. Maps showing present and proposed boundaries of the municipality, and the proposed extension of water and sewer outfalls to serve the annexed areas.
2. A statement showing that the area to be annexed meets the requirements of the General Statutes.
3. A statement setting forth plans for extending other municipal services into the area, and the method the municipality will use to finance these services.

#### Advantages of Annexation

Property owners in areas proposed for annexation often react negatively to such action because they feel annexation offers no advantages for them. On the contrary, annexation offers numerous advantages both for the property owners and the municipality. Following are some of the advantages to property owners:

1. Police Protection. Better police protection would be provided by Hazelwood. The Haywood County Sheriff's Department now provides police protection to unincorporated areas of Haywood County.
2. Fire Protection. Improved fire protection can be offered



by Hazelwood. This, in turn, would lower the fire insurance rates by changing the fire ratings in the area.

3. Solid Waste Collection and Disposal. Hazelwood will provide for the collection and disposal of all solid waste (garbage and trash) for any newly annexed areas. The property owners now must dispose of garbage and trash themselves or purchase this service from a private contractor.
4. Water and Sewer. Areas unserved by Hazelwood's water and sewer systems will be provided with these services within a reasonable amount of time after annexation. These services are needed as an area becomes more densely developed to protect the health and safety of the residents and other property owners. A large concentration of septic tanks in a densely developed area quite often saturates the ground creating very unhealthy conditions. In addition, increased water pressure from the Town's water system can be of major benefit in time of fire.
5. Street Lighting. Areas annexed by Hazelwood will be provided with street lights which help prevent crime and accidents.
6. Street Maintenance. Hazelwood will provide maintenance or contract with the State Department of Transportation for maintenance of all streets within newly annexed areas.
7. Right to Vote. Residents in the areas that are annexed by Hazelwood will have the opportunity to vote in the Town elections and hold town office. Often, the Town Board of Aldermen makes decisions which affect those who reside outside the town limits. Yet, those affected have no voice in



the election of this governing body.

8. Tax Exemption. Real and personal property taxes are an allowable exemption on both the state and federal income tax forms.

Following are some of the advantages of annexation to the Town of Hazelwood:

1. Increased Revenue. The property tax levy would provide the second largest source of new revenue if the proposed areas are annexed. Revenues from water and sewer service would provide funds for improvement and expansion of operations. Such revenues as franchise taxes, intangible taxes and Powell Bill funds are collected by the State and returned to municipalities. Intangible taxes are based on the ad valorem taxes levied in the preceeding fiscal year. The distribution of franchise taxes to the municipalities is based on the gross receipts from sales. Powell Bill funds are based on a combination of local street mileage and population.
2. Increased Tax Base. The new real and personal property would increase the appraised tax valuation for Hazelwood. This would increase the town's debt limit and enable it to expand its services and facilities.
3. Increased Population. The increased population would enhance Hazelwood's desirability as a site for new commercial and industrial expansion and support new levels of community services.



## Goals

The annexation study has two primary goals:

1. To determine what areas, if any, can be proposed for annexation and can meet the statutory requirements of the State of North Carolina; and
2. To determine the feasibility, from an economic viewpoint, for the Town of Hazelwood to annex any areas which are found to meet the statutory requirements referred to in 1 above. If the cost of providing municipal services to the annexed area is too great, relative to new revenue brought in, the proposed area may need to be reduced in size or eliminated.



## CHAPTER 2

### ANNEXATION STUDY AREA

Due to the fact that Hazelwood is almost completely surrounded by the Town of Waynesville, there is only one area that will qualify for annexation based on the General Statutes.

The area tentatively selected for annexation was measured and evaluated for statutory compliance. Original study boundaries were then drawn following statutory requirements that "a municipal governing board shall, whenever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality developed land on both sides of the street." (G.S. 160-453.4 d). However, it was found that boundaries, using these criteria, would not qualify the area under other statutory requirements. So boundaries were redrawn until the study area met all requirements. Efforts were made to include a safety margin in meeting the area requirements in order to avoid possible measurement errors that would affect the validity of the annexation ordinance.

Mention should be made that the terms "lot" and "tract" are not defined in the General Statutes as to whether they refer to use or ownership. The courts have been quite liberal in allowing any of several definitions to be used. According to one decision:

There are several methods which can be used in determining what is a lot in making an appraisal of an area to be annexed. One is to count each numbered lot separately. Another is to consider a landlocked lot as part of the lot in front of it and group the two lots--the landlocked lot and the one providing it



with access to a street--as being a single lot. A third method would be to consider a group of lots in single ownership and used for a single purpose as being a tract within the meaning of the statute, and count tracts rather than lots. Any one of these methods would be "calculated to provide reasonably accurate results" as required by G.S. 160-453-10. *Adams-Millis Corp. v. Town of Kernersville*, 6 N.C. App. 78, 169 S.E. 2d 496 (1969).

This decision and other relevant cases are important to the Town of Hazelwood since tax maps are not available. Lot lines were drawn from recent aerial photographs, so there may be several land uses (or dwellings) within a tract under single ownership.

Land uses were mapped during a survey conducted in July, 1976. The acreage of each area was computed by use of a compensating planimeter.

The population in each area was estimated by multiplying the number of dwelling units by the population per household (3.12) in Haywood County in 1970.

The only area which qualifies for annexation is located north of the present town limits and includes commercial, governmental and residential developments. Following is the specific location of the study area:

BEGINNING at the present point of intersection of Hazelwood and Waynesville's municipal boundaries and running with Waynesville's municipal boundary in a westerly direction approximately 1,800 feet to a point, then continuing with said municipal boundary in a northern direction approximately 250 feet to a point, said point being the corner of Waynesville municipal boundary and lying on a common property line, then following said property line in a southwesterly



direction approximately 500 feet to its point of intersection with the eastern margin of S. R. 1175, then running with the eastern margin of S. R. 1175 in a northerly direction approximately 100 feet to a point, then running from said point perpendicular across S. R. 1175, said point being approximately 500 feet north of the intersection of S. R. 1173 and S. R. 1175 and being the beginning of a line running parallel with and 400 feet from the centerline of S. R. 1173, then following said line in a southwesterly direction approximately 2,200 feet to a point, said point being the intersection of above said line and eastern margin of S. R. 1174, then running with the eastern margin of S. R. 1174 in a southerly direction approximately 500 feet to its intersection with the northern margin of S. R. 1173, then running perpendicular across S. R. 1173 to its southern margin, then following the southern margin of S. R. 1173 in an easterly direction approximately 3,600 feet to a property line, said property line being the back line of properties fronting S. R. 1246, then following said back property line in a southerly direction approximately 1,150 feet to the present Hazelwood municipal boundary, then with said municipal boundary approximately 2,200 feet to point of BEGINNING.

The area meets the following standards, as prescribed by G. S. 160A-36.

1. The area is contiguous to the present Hazelwood corporate limits.
2. The total external boundary of the area is 12,320 feet. Of this total, 2,200 feet or 17.85 percent coincide with existing

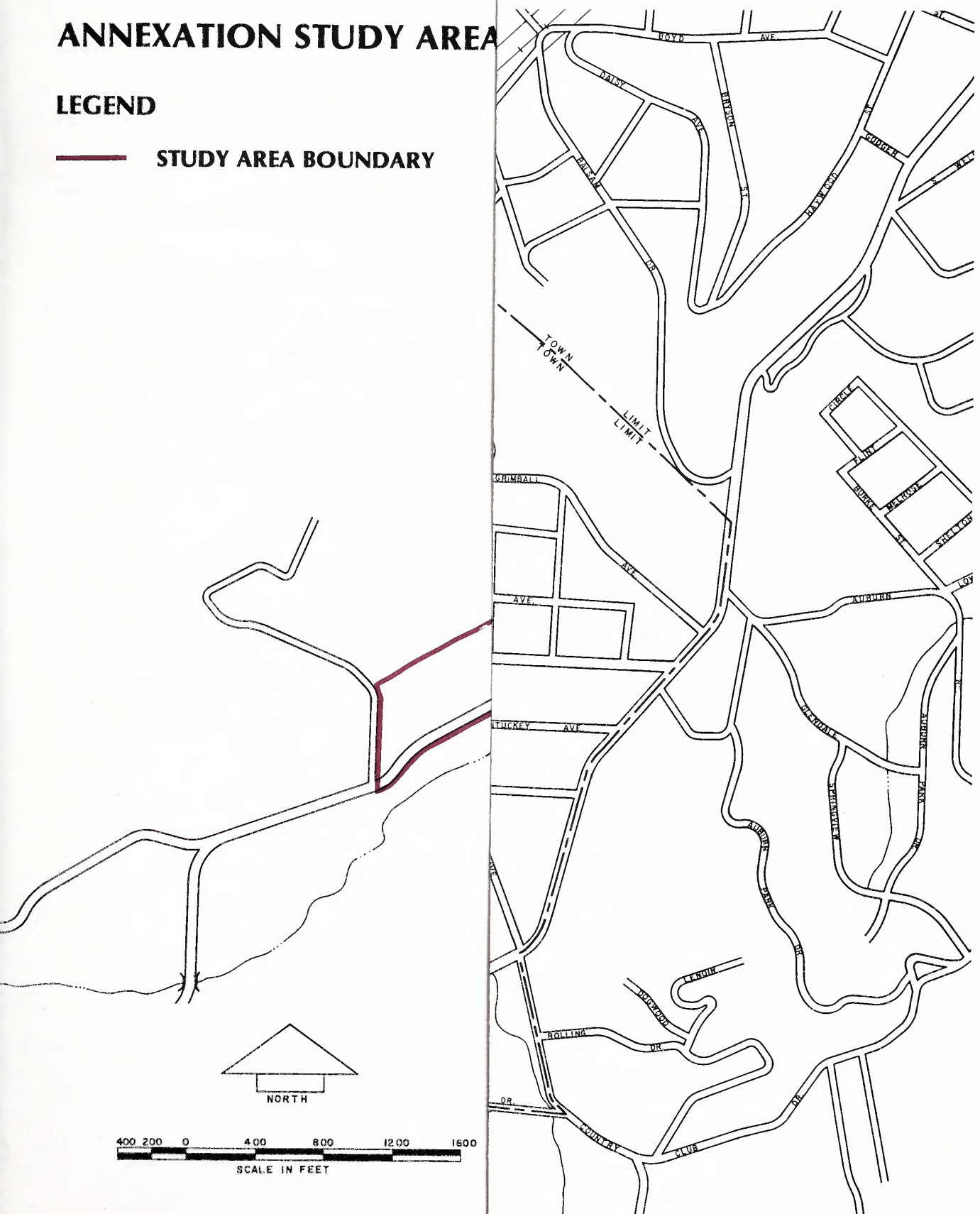


corporate limits. The requirement is at least 12.5 percent.

3. No part of the area is within the boundary of another incorporated municipality.
4. The area is developed for urban purposes as follows:
  - a. The area contains 22 lots and tracts of which 17, or 77.27 percent, are developed for urban purposes. The requirement is at least 60 percent.
  - b. The total acreage of the area, not counting the acreage used for commercial, industrial, governmental, or institutional, is 38.46 of which 27.63 acres or 71.84 percent are in lots or tracts of five acres or less.  
The requirement is at least 60 percent.

There are eighteen dwelling units, including three mobile homes, in the area which contains an estimated population of fifty-six persons. There is also one commercial establishment.







HAZELWOOD, NORTH CAROLINA

MAP 1

ANNEXATION STUDY AREA

LEGEND

— STUDY AREA BOUNDARY





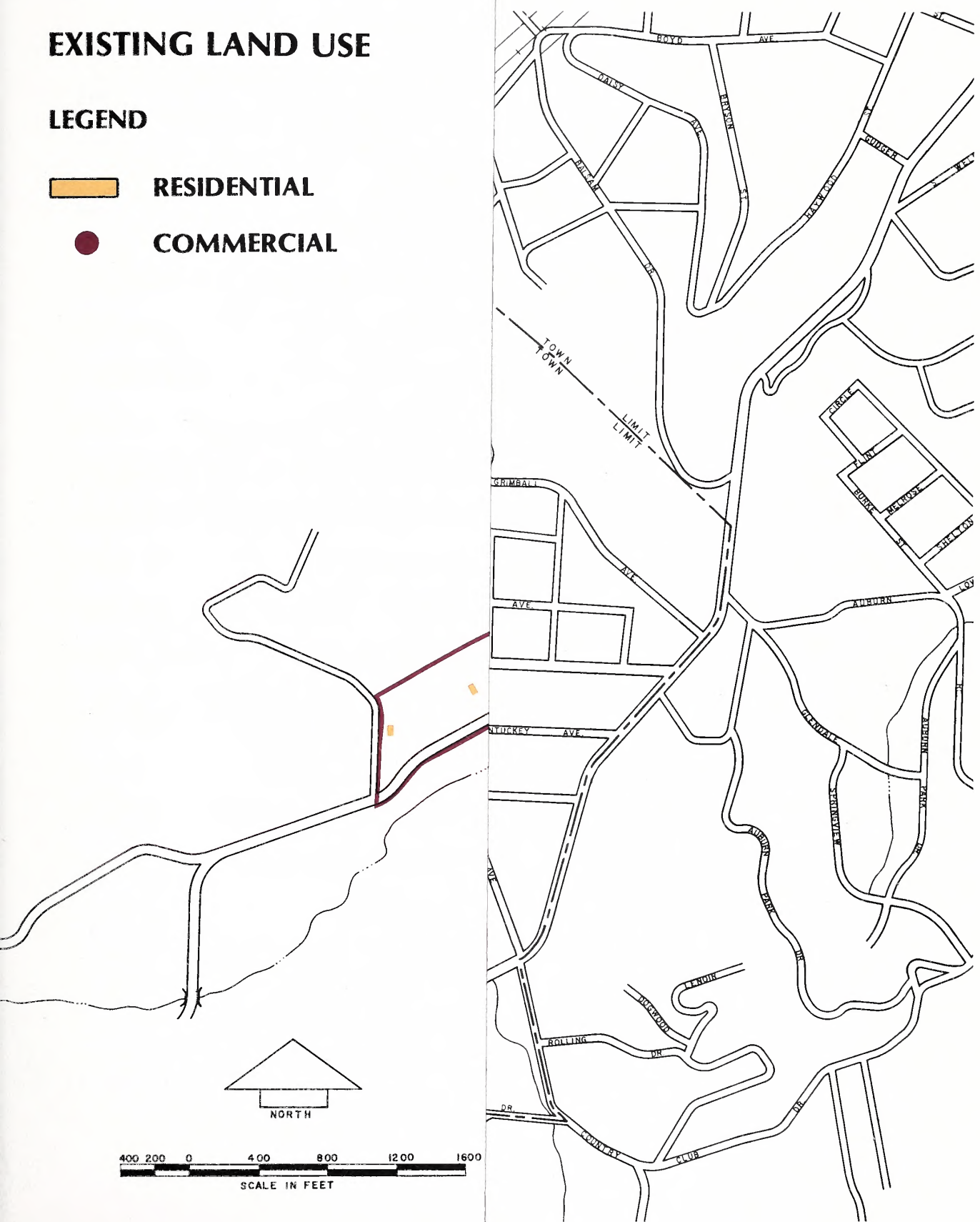
# HAZELWOOD, NORTH CARO

MAP 2

## EXISTING LAND USE

### LEGEND

-  RESIDENTIAL
-  COMMERCIAL







# HAZELWOOD, NORTH CAROLINA

MAP 2

## EXISTING LAND USE

### LEGEND

-  RESIDENTIAL
-  COMMERCIAL





## CHAPTER 3

### SERVICES AND EXPENDITURES\*

The Town of Hazelwood will provide municipal services to the annexed area on substantially the same basis and in the same manner as it is now providing to residents of the Town. See Table 1 for cost estimates for providing these services.

#### Police

Hazelwood currently employs a chief of police and seven officers to provide police protection on a twenty-four hour basis. The police department has two patrol cars and patrols an average of once every two hours. Services provided include traffic control and accident and criminal investigation.

Police protection can be provided to the study area on the same basis as existing service without additional personnel or capital expenditures. The department currently answers emergency calls in this area. Additional operating costs are estimated at \$1,040 per year for the study area. This can be financed from property tax revenues.

#### Fire Protection

Hazelwood has a volunteer fire department which provides fire protection for the Town. The department will respond to calls outside the town limits. The department currently has two fire trucks and a 1,500 gallon tanker. No additional cost is anticipated for the study area.

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\* See Table 1 for more information.



### Garbage Collection and Disposal

Garbage and trash collection and disposal are provided to town residents and are financed from property tax revenues. The town owns one packer truck and one flatbed truck for picking up trash and discarded appliances. The town provides two residential and one industrial and commercial pickups per week. Disposal is at the county landfill which will be capable of absorbing the additional refuse collected from the study area. No additional equipment or manpower will be needed. Estimated operating costs are \$853.36 per year to provide service to the study area. This includes an estimated \$811.20 in additional labor cost and \$42.16 in additional fuel costs. Property tax revenue will pay for this expense.

### Street Lights

The Town of Hazelwood currently provides street lighting in all areas inside the town limits. Lights are spaced at varying distances depending on the area of town. Street lights will be adequately placed in the study area upon annexation. Cost estimates are based on placing lights an average of 300 feet intervals at a monthly operating cost of \$4.00 per light. Based on these figures additional street lights will cost an estimated \$720 annually with property tax and franchise tax revenues covering this expense. Carolina Power and Light Company will install the lights.

### Street Maintenance

Hazelwood finances maintenance of town streets from Powell Bill funds received from the State. These funds are derived from the State gasoline tax and a portion of the tax is distributed to municipalities on the basis of population and street mileage. The only road in the study area is state maintained. Unless Hazelwood formally requests to take over maintenance



of this road it will remain under state maintenance. Based on this arrangement the town will receive a slight increase in Powell Bill funds based on additional population but not on any additional street mileage. Estimated additional revenue, based on \$9.22 per capita, will be \$516.32 per year.

#### Water and Sewer

Municipal water service will be provided in the study area if it is annexed. Hazelwood currently purchases all of its water from the Town of Waynesville. Consequently, Hazelwood neither owns nor maintains a water treatment system. The Town does, however, own the system of water lines located within the town limits. The Town owns its own sewer lines but pays Waynesville to treat its sewage. Hazelwood will charge all new water and sewer customers the rates in effect at the time they receive the services. Water and sewer lines must be laid in the annexed area since these services are not currently provided. An engineering study is currently being conducted to determine the feasibility of Hazelwood developing its own water supply. In conversation with the engineers it appears the project will be feasible. Depending upon whether the town does supply its own water, two alternatives are available for supplying water and sewer services to the study area:

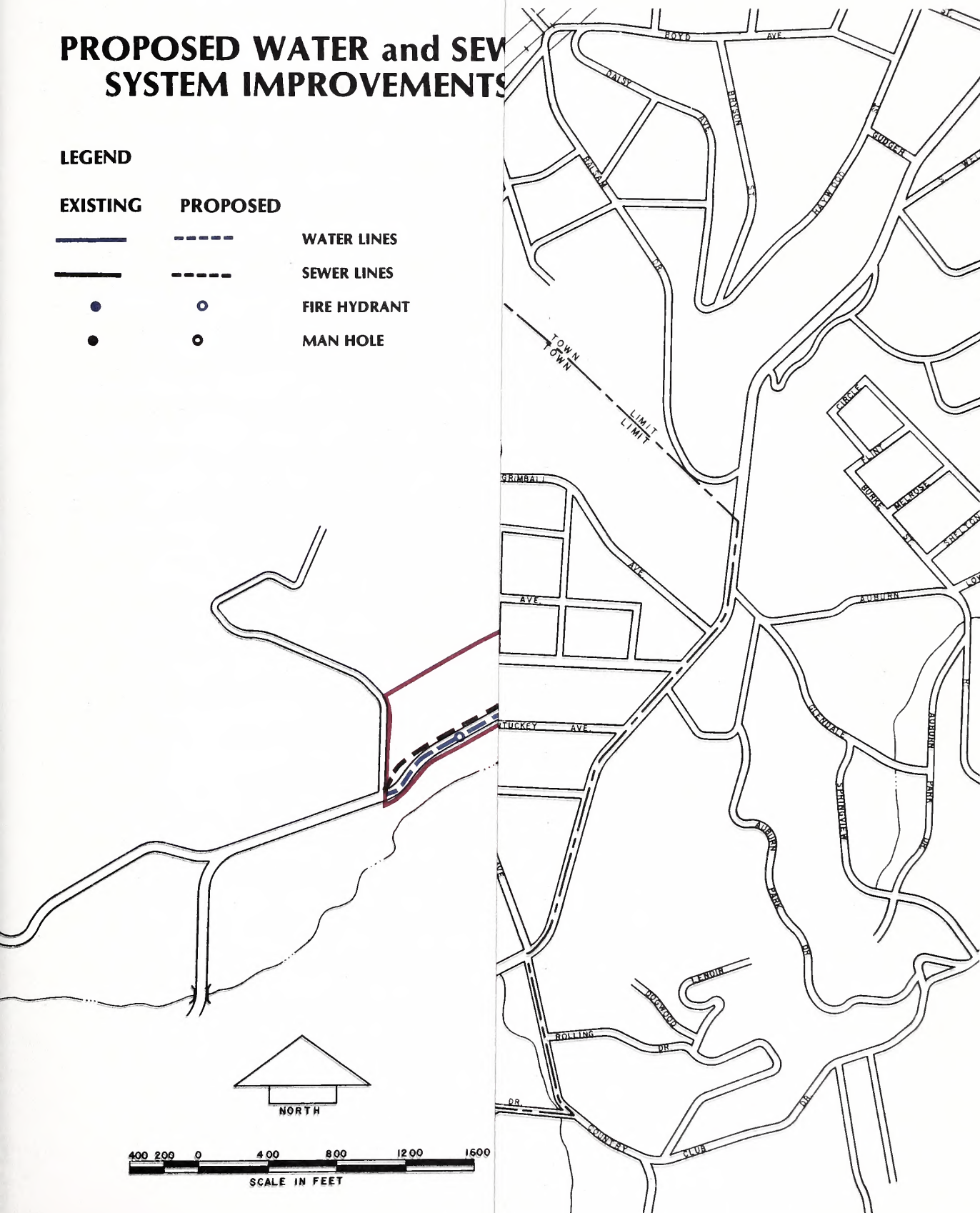
Alternative A -- If the town does develop its own water supply a 10 inch - 12 inch water line would be constructed along Plott Creek Road. The proposed water line would pass through the annexation study area. Consequently, the town could easily provide water to the residents of the area. Total financing in the form of a grant and a loan has already been assured for the project. The loan payment would be financed from water charges collected from all town customers. This would be possible because an estimated \$72,000 per year in water purchased from Waynesville will be



applied to repayment of the loans. The only expenditure incurred exclusively in the annexed area would be construction of a six inch sewer line at an estimated cost of \$18,220. Farmer's Home Administration will provide a loan for all the cost not covered by any grants. A 100 percent loan would be at five percent interest for 38 years with yearly payments of approximately \$1,080. These costs can be paid from water and sewer revenue collected in the study area.

Alternative B -- If Hazelwood continues to purchase water from Waynesville, it will be necessary to construct a four inch water line, at an estimated cost of \$45,000 and a six inch sewer line at an estimated cost of \$18,220, in the study area along Plott Creek Road. Total estimated cost of both projects is \$63,220. An FHA loan at five percent interest over 38 years can be obtained. This would require approximately \$3,749 per year in payments. A fifty percent grant and a fifty percent loan from FHA is also a possibility. This would reduce yearly payments to approximately \$2,372. In addition to these costs, the Town would need to purchase approximately \$2,394 in additional water from Waynesville to adequately supply the area with water. Four additional fire hydrants costing a total of \$1,200 will need to be purchased. At the present rates, the additional water and sewer revenue generated in the study area would not be adequate to cover these additional expenditures.















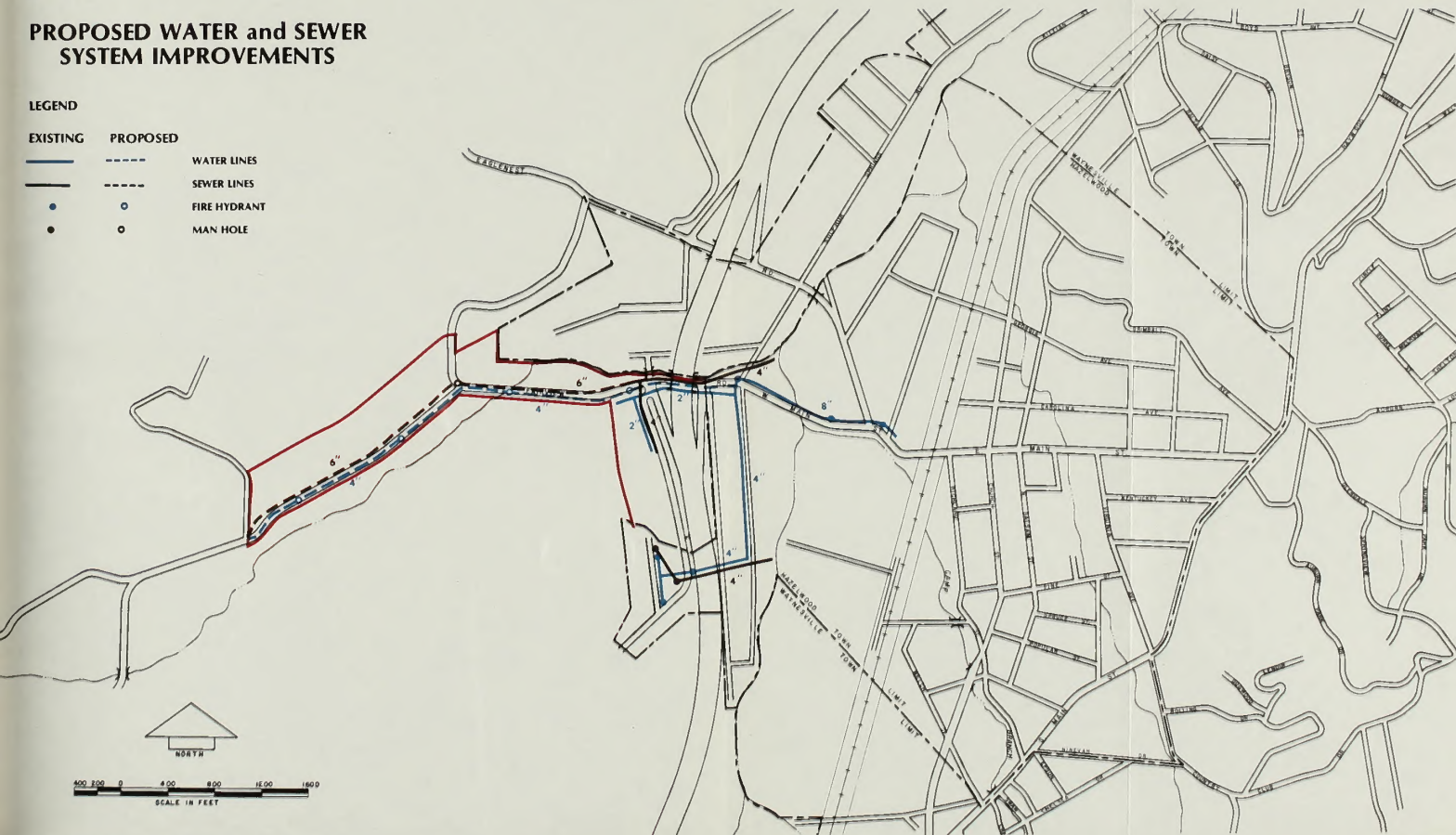
# HAZELWOOD, NORTH CAROLINA

MAP 3

## PROPOSED WATER and SEWER SYSTEM IMPROVEMENTS

### LEGEND

EXISTING	PROPOSED	
		WATER LINES
		SEWER LINES
		FIRE HYDRANT
		MAN HOLE





## CHAPTER 4

### REVENUE ESTIMATES

Estimates of revenues and expenses for the study area should prove useful to town officials in determining whether or not annexation should be implemented. However, it should be emphasized that these are estimates only and should not be viewed as precise figures.

The bases for estimating revenues and costs will first be discussed in general terms and then applied to the study area.

#### Revenue Estimates

Estimates of revenues which Hazelwood can expect from annexation were derived from the land use survey analysis, the Town's annual budget and the Haywood County Tax Office. All estimates are computed on an annual basis and represent revenues that can be allocated from the area as it is currently developed.

Sources of revenue for the Town of Hazelwood are as follows:

1. Real Property Tax. The assessed valuation (100%) of commercial and residential property in the study area was obtained from the Haywood County Tax Office. Total assessed valuation in the study area is \$357,489. This valuation was then multiplied by \$6.50 per \$1,000 valuation to arrive at anticipated real property revenues, based on 96% collection rates.
2. Personal Property Tax. Personal property valuation was obtained for all commercial and residential property. Several mobile homes are located in this area. Since mobile homes are taxed as personal property their value was estimated to average \$4,000 each. It should be noted that



these values will decrease each year since mobile homes depreciate with age. Total personal property value was then multiplied by \$6.50 per \$1000 valuation.

3. Powell Bill Funds. The state collects a tax on every gallon of motor fuel sold in the state. From this tax, one cent on each gallon is allocated for and distributed back to the municipalities. The municipalities share three-fourths of a cent based on "Population Estimates for Local Governmental Tax Distribution" calculated annually by the Office of State Planning and one-fourth cent based on mileage of town maintained streets. The current allocation is \$9.22 per capita and \$677.29 per mile.
4. Intangible Tax. The state collects an intangible tax on such personal property as cash, stocks and bonds and returns 90 to 95 percent of these funds to the counties and municipalities on the basis of population. The funds are in turn distributed among the county and its municipalities according to the latest levy of ad valorem taxes. Hazelwood currently receives approximately three and one-half cents of intangible tax revenue per dollar of ad valorem (real and personal) tax revenue.
5. Franchise Tax. Franchise taxes are collected by the state from such public service companies as gas, telephone, lights and power, bus, water and sewerage companies. Municipalities receive from the state three percent of the total gross receipts derived from the sale of commodities



within the municipality. The amount of franchise tax revenue anticipated by Hazelwood during the 1976-77 fiscal year is \$15,000 or approximately \$24.00 per household.

6. Sales Tax. Haywood County levies a one percent sales tax ("piggy back" on the state's) that is collected and distributed by the state. In Haywood County these monies are allocated to municipalities on the basis of annual population estimates prepared by the Office of State Planning. During the 1976-77 fiscal year, Hazelwood expects revenues from this source to total \$34,000 or approximately \$16.79 per capita.
7. Water and Sewer. At the present rates, it is estimated that Hazelwood will receive approximately \$3,122 per year in additional revenues from the study area.
8. Revenue Sharing. General revenue sharing allocations from the federal government are based on federal decennial census population figures as well as other variables. According to state treasury officials, even if Hazelwood should annex substantial population, revenue sharing allocations may not be increased for several years. In view of uncertainty about this source of revenue, it is not included in revenue estimates for annexation.



TABLE 1  
ESTIMATED REVENUES AND EXPENDITURES

Estimated Annual Revenues

Property Tax (real and personal) at 96% collection rate	\$2,231
Powell Bill	516
Intangible Tax	78
Franchise Tax	432
Sales Tax	940
Water and Sewer Charge	<u>3,122</u>
Total Revenue (per year)	\$7,309

Estimated Annual Expenditures

Police	\$1,040
Sanitation	853
Street Lights	<u>720</u>
Subtotal	\$2,613

Water and Sewer

Alternative A\*

a. 100% FHA Loan (annual debt payment)	<u>\$1,080</u>
Total	\$1,080

Alternative B

a. 100% FHA Loan (annual debt payment)	\$3,749
b. Additional water purchase	<u>2,394</u>
Total	\$6,143

\*See Chapter 3



TABLE 1 (CONTINUED)

a.	50% FHA Grant, 50% FHA Loan (annual debt payment)	\$2,372
b.	Additional water purchase	<u>2,394</u>
	Total	\$4,766

Total Annual Expenditures

1.	Using Water and Sewer Alternate A	\$4,487
2.	Using Water and Sewer Alternate B	
	100% FHA Loan	8,756
	50% Grant, 50% Loan	7,379

Estimated Capital Costs

Four Fire Hydrants	\$1,200
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## CHAPTER 5

### RECOMMENDATIONS

Estimated costs and revenues that would be generated by annexation show that the study area could be feasibly annexed only if Hazelwood decides to develop its own water supply. A study is currently being conducted to determine the feasibility of the town supplying its own water. According to engineers involved in the study, it appears the project is feasible and could be financed, without an increase in the town's present operating budget, through a combination of grants and loans that have already been assured if the project is undertaken. Hazelwood currently purchases \$62,400 in water per year from Waynesville. This money could be used in the repayment of the loan for the new water system. If the town does undertake this project a 10 inch - 12 inch water line would be constructed through the proposed annexation area. Thus the area could be supplied with water without any expenditures other than the cost of the total project itself. The revenues generated from water and sewer collection in the annexed area would more than cover the cost of providing sewer service to the area.

If Hazelwood continues to purchase water from Waynesville, the cost of providing water and sewer service would be much higher than revenues generated in this area, thus making it economically not feasible to annex the area at the present time.

It is recommended that Hazelwood develop its own water supply and once the supply is available, annex the proposed area. The town should be in continuous contact with FHA and other agencies such as the U. S. Environmental Protection Agency; North Carolina Department of Natural and Economic Resources, Division of Environmental Management and the U. S. Economic



Development Agency, for possible additional funding when annexation takes place. The annual debt payments used in this study are based on the assumption that the voters in Hazelwood will approve the sale of bonds to FHA.



## APPENDIX I

### ENVIRONMENTAL CONSIDERATIONS

Pursuant to the requirements and guidelines on the National Environmental Protection Act, the Council on Environmental Quality, the U. S. Department of Housing and Urban Development, and the State Environmental Policy Act, the following is a summary of environmental considerations regarding the recommendations in this annexation study.

1. Abstract. This annexation study outlines the statutory requirements which must be met by the Town of Hazelwood to annex contiguous areas. One area is examined for degree of conformity to statutory requirements, and recommendations are made as to whether the area should be annexed to achieve the community's goals and growth objectives.
2. Environmental Impact. The recommendations in this study, if implemented, will have a favorable environmental impact for the following reasons: (a) enlarged town limits will provide a higher tax base, thereby allowing the town to provide facilities such as improved sewage treatment to help protect the environment, (b) enlarged town limits as recommended will allow the town to develop economically, and (c) human resource development will be improved through enhancing the town's image, thereby stimulating badly needed economic development.
3. Adverse Environmental Effects. The recommendations, if implemented, should have no undesirable environmental consequences.
4. Alternatives. If annexation does not take place in Hazelwood the town could lose population, and its ability to provide a balanced people-jobs-environment relationship could be seriously threatened.
5. Relationship Between Short-Term Uses of Man's Environment and Maintenance of Long-Term Productivity. By annexing areas contiguous to the town and providing them with needed public services, particularly solid waste disposal and sanitary sewers, it will help maintain long term land and water productivity through a decrease in pollution of these resources.
6. Irreversible Commitments of Resources. If the recommendations are followed, economic resources such as water and sewer lines, street lights and police and fire protection will be committed.
7. Federal, State and Local Environmental Controls. All federal, state and local environmental controls currently being enforced will be applicable to any annexation in the planning area.



8. Mitigation Measures. Not applicable since undesirable environmental consequences of annexation are not anticipated.



## APPENDIX II

### NORTH CAROLINA GENERAL STATUTES DEALING WITH ANNEXATION BY COMMUNITIES UNDER 5,000 POPULATION

#### Part 2. Annexation by Cities of Less than 5,000.

**§ 160A-33. Declaration of policy.** — It is hereby declared as a matter of State policy:

- (1) That sound urban development is essential to the continued economic development of North Carolina;
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and government purposes or in areas undergoing such development;
- (3) That municipal boundaries should be extended, in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare; and
- (4) That new urban development in and around municipalities having a population of less than 5,000 persons tends to be concentrated close to the municipal boundary rather than being scattered and dispersed as in the vicinity of larger municipalities, so that the legislative standards governing annexation by smaller municipalities can be simpler than those for large municipalities and still attain the objectives set forth in this section;
- (5) That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation. (1959, c. 1010, s. 1; 1973, c. 426, s. 74.)

**Editor's Note.** — Sections 160A-33 through 160A-44 were originally codified as §§ 160-453.1 through 160-453.12. They were transferred to their present position by Session Laws 1973, c. 426, s. 74.

**§ 160A-34. Authority to annex.** — The governing board of any municipality having a population of less than 5,000 persons according to the last federal decennial census may extend the corporate limits of such municipality under the procedure set forth in this Part. (1959, c. 1010, s. 2; 1973, c. 426, s. 74.)

**§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.** — A municipality exercising authority under this Part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-37, prepare a report setting forth such plans to provide services to such area. The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
  - a. The present and proposed boundaries of the municipality.
  - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:



- a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services

until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines.

- b. Provide for extension of water mains and sewer lines into the area to be annexed so that property owners in the area to be annexed will be able to secure public water and sewer services according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions. If the municipality must, at its own expense, extend water and/or sewer mains into the area to be annexed before property owners in the area can, according to municipal policies, make such connection to such lines, then the plans must call for contracts to be let and construction to begin on such lines within one year following the effective date of annexation.
- c. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed. (1959, c. 1010, s. 3; 1973, c. 426, s. 71.)

**Local Modification.** — Session Laws 1973, c. 426, s. 71, local modification under § 160-453.3 in the 278, repealed Session Laws 1969, c. 1232, bound volume, applicable to Franklin County and treated as a

**§ 160A-36. Character of area to be annexed.** — (a) A municipal governing board may extend the municipal corporate limits to include any area which meets the general standards of subsection (b), and which meets the requirements of subsection (c).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) The area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

(d) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality developed land on both sides of the street. (1959, c. 1010, s. 4; 1973, c. 426, s. 71.)

**§ 160A-37. Procedure for annexation.** — (a) Notice of Intent. — Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than 30 days and not more than 60 days following passage of the resolution.



- (b) Notice of Public Hearing. — The notice of public hearing shall
- (1) Fix the date, hour and place of the public hearing.
  - (2) Describe clearly the boundaries of the area under consideration.
  - (3) State that the report required in G.S. 160A-35 will be available at the office of the municipal clerk at least 14 days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least four successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than 22 days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public hearing.

(c) Action prior to Hearing. — At least 14 days before the date of the public hearing, the governing board shall approve the report provided for in G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution.

(d) Public Hearing. — At the public hearing a representative of the municipality shall first make an explanation of the report required in G.S. 160A-35. Following such explanation, all persons resident or owning property in the territory described in the notice of public hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(e) Passage of the Annexation Ordinance. — The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or special meeting held no sooner than the seventh day following the public hearing and not later than 60 days following such public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-36. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of G.S. 160A-36(c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.
- (2) A statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by G.S. 160A-35.
- (3) A specific finding that on the effective date of annexation the municipality will have funds appropriated in sufficient amount to finance construction of any water and sewer lines found necessary in the report required by G.S. 160A-35 to extend the basic water and/or sewer system of the municipality into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds must be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.
- (4) Fix the effective date of annexation. The effective date of annexation may be fixed for any date within 12 months from the date of passage of the ordinance.



(f) Effect of Annexation Ordinance. — From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

(g) Simultaneous Annexation Proceedings. — If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this Part for the annexation of such areas.

(h) Remedies for Failure to Provide Services. — If, not earlier than one year from the effective date of annexation, and not later than 15 months from the effective date of annexation, any person owning property in the annexed territory shall believe that the municipality has not followed through on its service plans adopted under the provisions of G.S. 160A-35(3) and 160A-37(e), such person may apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be granted by the judge of superior court

- (1) If the municipality has not provided the services set forth in its plan submitted under the provisions of G.S. 160A-35(3)a on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation, and
- (2) If at the time the writ is sought such services set forth in the plan submitted under the provisions of G.S. 160A-35(3)a are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the judge of superior court

- (1) If the plans submitted under the provisions of G.S. 160A-35(3)c require the construction of major trunk water mains and sewer outfall lines and
- (2) If contracts for such construction have not yet been let.

If a writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved person, shall be charged to the municipality. (1959, c. 1010, s. 5; 1967, c. 1226, s. 1; 1973, c. 426, s. 74.)

**§ 160A-38. Appeal.** — (a) Within 30 days following the passage of an annexation ordinance under authority of this Part, any person owning property in the annexed territory who shall believe that he will suffer material injury by reason of the failure of the municipal governing board to comply with the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-36 as they apply to his property may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board.

(b) Such petition shall explicitly state what exceptions are taken to the action of the governing board and what relief the petitioner seeks. Within five days after the petition is filed with the court, the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within 15 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the municipality shall transmit to the reviewing court



- (1) A transcript of the portions of the municipal journal or minute book in which the procedure for annexation has been set forth and
- (2) A copy of the report setting forth the plans for extending services to the annexed area as required in G.S. 160A-35.
- (d) If two or more petitions for review are submitted to the court, the court may consolidate all such petitions for review at a single hearing, and the municipality shall be required to submit only one set of minutes and one report as required in subsection (c).
- (e) At any time before or during the review proceeding, any petitioner or petitioners may apply to the reviewing court for an order staying the operation of the annexation ordinance pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.
- (f) The court shall fix the date for review of annexation proceedings under this Chapter, which review date shall preferably be within 30 days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. The court may hear oral arguments and receive written briefs, and may take evidence intended to show either
  - (1) That the statutory procedure was not followed or
  - (2) That the provisions of G.S. 160A-35 were not met, or
  - (3) That the provisions of G.S. 160A-36 have not been met.
- (g) The court may affirm the action of the governing board without change, or it may
  - (1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.
  - (2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-36 if it finds that the provisions of G.S. 160A-36 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.
  - (3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-35 are satisfied.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within three months from receipt of such instructions, the annexation proceeding shall be deemed null and void.

(h) Any party to the review proceedings, including the municipality, may appeal to the Supreme Court from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall be appropriate, pending the outcome of the appeal to the Supreme Court; provided, that the superior court may, with the agreement of the municipality, permit annexation to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into the city without regard to any part of the area concerning which an appeal is being made.

(i) If part or all of the area annexed under the terms of an annexation ordinance is the subject of an appeal to the superior or Supreme Court on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the date of the final judgment of the superior or Supreme Court, whichever is appropriate, or the date the municipal governing board completes action to make the ordinance conform to the court's instructions in the event of remand. (1959, c. 1010, s. 6; 1973, c. 426, s. 74.)



**§ 160A-39. Annexation recorded.** — Whenever the limits of a municipality are enlarged in accordance with the provisions of this Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. (1959, c. 1010, s. 7; 1973, c. 426, s. 74.)

**§ 160A-40. Authorized expenditures.** — Municipalities initiating annexations under the provisions of this Part are authorized to make expenditures for surveys required to describe the property under consideration or for any other purpose necessary to plan for the study and/or annexation of unincorporated territory adjacent to the municipality. In addition, following final passage of the annexation ordinance, the annexing municipality shall have authority to proceed with expenditures for construction of water and sewer lines and other capital facilities and for any other purpose calculated to bring services into the annexed area in a more effective and expeditious manner prior to the effective date of annexation. (1959, c. 1010, s. 8; 1973, c. 426, s. 74.)

**§ 160A-41. Definitions.** — The following terms where used in this Part shall have the following meanings, except where the context clearly indicates a different meaning:

- (1) "Contiguous area" shall mean any area which, at the time annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina.
- (2) "Used for residential purposes" shall mean any lot or tract five acres or less in size on which is constructed a habitable dwelling unit. (1959, c. 1010, s. 9; 1973, c. 426, s. 74.)

**§ 160A-42. Land estimates.** — In determining degree of land subdivision for purposes of meeting the requirements of G.S. 160A-36, the municipality shall use methods calculated to provide reasonably accurate results. In determining whether the standards set forth in G.S. 160A-36 have been met on appeal to the superior court under G.S. 160A-38, the reviewing court shall accept the estimates of the municipality:

- (1) As to total area if the estimate is based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable map used for official purposes by a governmental agency unless the petitioners on appeal demonstrate that such estimates are in error in the amount of five percent (5%) or more.
- (2) As to degree of land subdivision, if the estimates are based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of five percent (5%) or more. (1959, c. 1010, s. 10; 1973, c. 426, s. 74.)

**§ 160A-43. Effect of Part on other laws.** — From and after July 1, 1959, this Part shall be in full force and effect with respect to all municipalities having a population of less than 5,000 persons according to the last preceding federal decennial census. The provisions of Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina shall remain in full force and effect with respect to such municipalities as an alternative procedure until June 30, 1962. From and after July 1, 1962, all the provisions of Part 1 of Article 36 of Chapter 160 of the General Statutes of North Carolina, with the exception of G.S. 160-452 [G.S.



160A-31] as it exists at the time of the passage of this Part or as it may be amended at this session of the General Assembly, shall be repealed. Insofar as the provisions of this Part are inconsistent with the provisions of any other law, the provisions of this Part shall be controlling. (1959, c. 1010, s. 11; 1961, c. 655, s. 1; 1967, c. 1226, s. 2; 1973, c. 426, s. 74.)

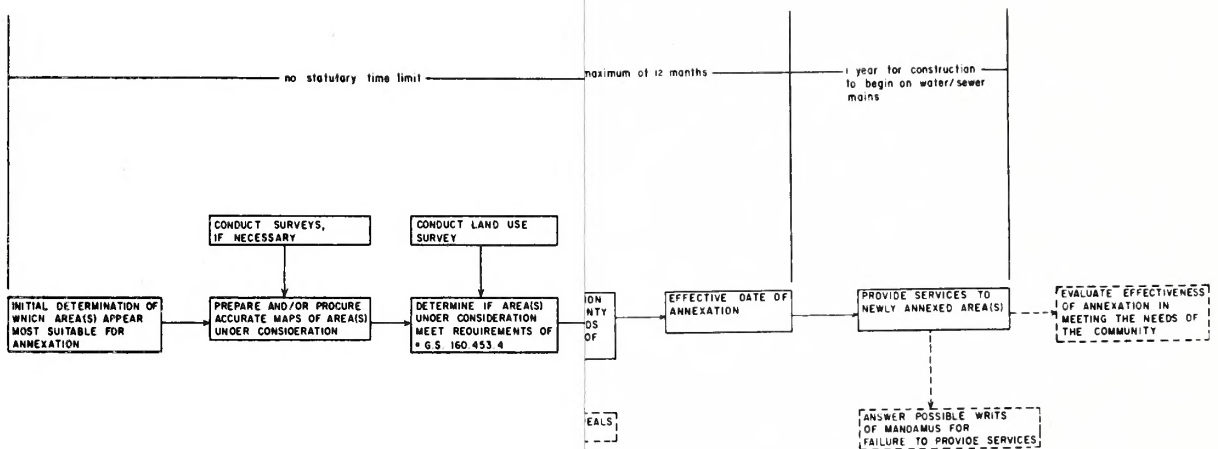
**§ 160A-44. Counties excepted from Part; Part 1 continued for such counties.** — The provisions of this Part shall not apply to the following counties: Alleghany, Edgecombe, Halifax, Iredell, Nash, except for the towns of Nashville, Spring Hope, Castalia and Middlesex, Pender, Perquimans and Person, provided the provisions of this Part shall apply to the towns of Whitakers, Sharpsburg, and Battleboro in Edgecombe and Nash Counties. This Part shall not apply to the town of King in Stokes County, nor to the town of Pilot Mountain in Surry County.

Notwithstanding any other provisions of this Part, Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina and specifically G.S. 160A-31 as the same may be rewritten or amended, shall remain in full force and effect as to the counties herein named. (1959, c. 1010, s. 12; 1961, c. 1081; 1965, cc. 782, 875; 1967, c. 156, s. 1; 1969, c. 438, s. 1; c. 1232; 1971, c. 28; 1973, c. 426, s. 74.)

**Editor's Note.** — Session Laws 1973, c. 335, provides that the Town of Scotland Neck is authorized to annex property under the procedures of both Part 1 and Part 2 of this Article.



## SEQUENCE

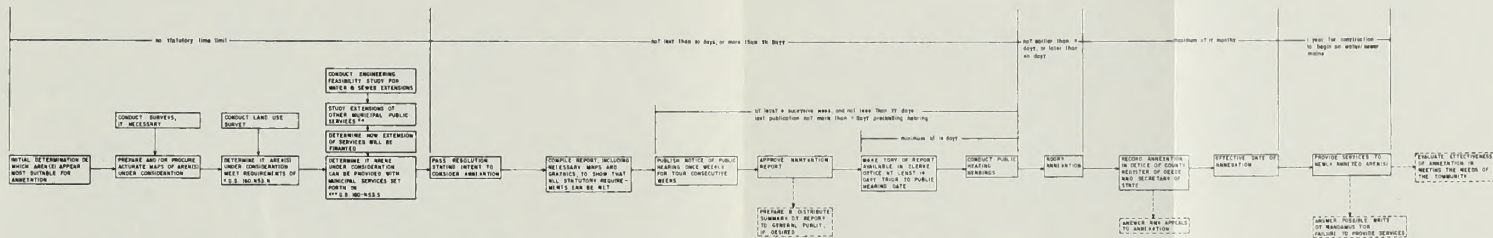


- \* BASICALLY, THAT AT LEAST ONE EIGHTH OF THE BOUNDARIES COINCIDE WITH THE MUNICIPAL BOUNDARY, THAT NO PART IS WITHIN THE BOUNDARY OF ANOTHER INCORPORATED MUNICIPALITY, THAT THE AREA TO BE ANNEXED IS DEVELOPED FOR URBAN PURPOSES, AND THAT NATURAL FEATURES ARE USED AS BOUNDARIES.
- \*\* INCLUDING POLICE PROTECTION, FIRE PROTECTION, GARBAGE COLLECTION, AND STREET MAINTENANCE.
- \*\*\* THIS DETERMINATION, IN REPORT FORM, INCLUDES MAPS AND STATEMENTS NECESSARY TO SHOW THAT THE AREA CAN BE PROVIDED WITH MUNICIPAL SERVICES, AND NOW THESE SERVICES WILL BE FINANCED BY THE AREA.



# APPENDIX III

## SEQUENCE OF EVENTS FOR ANNEXATION BY COMMUNITIES OF LESS THAN 5000 [UNDER NORTH CAROLINA G.S. 160-453.1 THROUGH 160-453.12]



\* BASICALLY, THAT AT LEAST ONE EIGHTH OF THE BOUNDARIES COINCIDE WITH THE MUNICIPAL BOUNDARY, THAT NO PART IS WITHIN THE BOUNDARY OF ANOTHER INCORPORATED MUNICIPALITY, THAT THE AREA CAN BE ANNEXED TO DEVELOPED FOR URBAN PURPOSES, AND THAT NATURAL FEATURES ARE USED AS BOUNDARIES.

\*\* INCLUDING POLICE PROTECTION, FIRE PROTECTION, SANITATION, COLLECTION, AND STREET MAINTENANCE.

\*\*\* THIS DETERMINATION, IN REPORT FORM, INCLUDES MAPS AND STATEMENTS NECESSARY TO SHOW THAT THE AREA CAN BE PROVIDED WITH MUNICIPAL SERVICES AND HOW THESE SERVICES WILL BE FINANCED.





